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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/483,467 01/13/00 DANNER

D R087 1100

EXAMINER

PM82/0116

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ART UNIT	PAPER NUMBER

3641
DATE MAILED:

01/16/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/483,467

Applicant(s)

Danner et al.

Examiner
Stephen M. Johnson

Group Art Unit
3641



☒ Responsive to communication(s) filed on Oct 26, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-9 and 11-74 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-9 and 11-74 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Jan 13, 2000 is/are objected to by the Examiner.

☒ The proposed drawing correction, filed on Oct 26, 2000 is ☐ approved ☒ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 8

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3641

1. This reissue application was filed without the required offer to surrender the original patent or, if the original is lost or inaccessible, an affidavit or declaration to that effect. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the switching means (see claim 1, line 6, claim 47, lines 8-9); the safety (see claim 1, line 12, claims 55, 57, and 63); the threaded firing pin adjustment screw (see claim 5); the threaded aperture (see claim 5); and the safety mechanism (see claims 72 and 73) must be shown or the feature(s) canceled from the claim(s). **No new matter should be entered.**

3. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

4. The proposed drawing corrections filed on 10/26/2000 would correct the objections to the drawings if made as additional drawings. In Reissue cases, the drawings as issued cannot be amended. However, new drawings may be added. 37 CFR 1.121(b)(3)(I).

5. Claims 5 and 57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 3641

In claim 5, lines 8-9, it is not understood as to how something can be between the firing pin and the firing pin plunger when the firing pin plunger is a part of the firing pin. In claim 57, line 3, the phrase "a safe position" should be claimed as 'said safe position' if the previously claimed safe position is intended.

6. Claims 1-9 and 11-74 are rejected under 35 U.S.C. 251.

Whatever the reason that the claims were originally allowed must be retained in any reissue claims, since applicant has "surrendered" claiming his invention of a scope which lacks the "reasons-it-was allowed limitations". In this case the parent case (08/680,490) makes it clear that the highlighted portions of claims 1 and 38 were the reasons that the claim was allowed (see attachment). All reissue claims must retain those limitations (see MPEP 1412.02).

7. Applicant's arguments are addressed as follows. The base for recapture is not upon any action by applicant but rather upon the reasons for allowance as indicated in paper number 3 of patent application number 08/680,490 (a copy of which has been provided) and the absence of any argument contending the appropriateness of the reasons for allowance prior to issuance of Patent Number 5,755,056.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3641

9. Claims 1, 7-9, 11-13, 21, 25, 28, 32, 35, 38, 40, 42-43, 45-54, 57, 59-67, and 69-74 are rejected under 35 U.S.C. 102(b) as being anticipated by Harthcock.

Harthcock discloses an electronic firearm and associated method comprising:

- a) monitoring a sequence of operative conditions of a firearm, 31
- b) sending a signal to the control means when the trigger is
actuated, col. 4, lines 59-63;
col. 5, lines 45-49;
col. 6, lines 40-44;
col. 8, lines 1-4
- c) isolating the firing pin from the voltage source upon the
occurrence of failure of firing components, col. 4, lines 59-63
- d) a safety switch, 83 or col. 8, lines 1-4
- e) an indicator, and 47
- f) a switch isolating means. 31

10. Applicant's arguments are addressed as follows. It is argued that Harthcock does not "prevent an electrically conductive firing pin from receiving power from a voltage source from the detection or failure of any one of the preprogrammed conditions or parameters. This is not the case. Control processor 31 prevents conduction of a firing signal from a voltage source upon the detection of several preprogrammed conditions (breech open (see col. 4, lines 59-63); trigger safety switch 83 in the "off" position (see col. 6, lines 40-44); or digital key lock not entered (see

Art Unit: 3641

col. 8, lines 1-4)). It is further argued that Harthcock does not isolate "a firing pin from the voltage source upon occurrence of the failure of firing conditions. This is not convincing. Control processor 31 will not permit a firing signal to be sent if any one of the previous mentioned conditions is not met. Consequently, it acts to separate the voltage source or source of the firing pulse from the firing pin. With regard to the argument that a firing pulse will still be generated even if the grip safety sensors 51 and 52 do not indicate the firearm to be properly held. This is true. However, a firing pulse will not be generated if either trigger safety switch 83 or the digital key lock (see col. 8, lines 1-4) are not in the proper configuration. With regard to the argument that stopping the transmission of the firing pulse from being generated is not the same as isolating the firing pin from the voltage source. This argument is not convincing. If one does not permit the firing pulse generated by the voltage source to be transmitted to the firing pin, the firing pin is effectively isolated from the voltage source.

11. Applicant's arguments filed on 10/26/2000 have been fully considered but they are not persuasive. These arguments have been addressed in the preceding paragraphs of this Office action.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

Art Unit: 3641

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication should be directed to Stephen M. Johnson at telephone number (703)-306-4158.



STEPHEN M. JOHNSON
PRIMARY EXAMINER